IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.M.P.(M) No.541 of 2006

Decided on: September 6, 2006.

Amarjeet Singh **…Petitioner.**

Versus

State of H.P. **…Respondent.**

Coram

The Hon'ble Mr. Justice Deepak Gupta, Judge.

Whether approved for reporting?[1] No

For the Petitioner: **Mr.Deepak Kaushal, Advocate.**

For the respondent: **Mr.J.S.Guleria, Law Officer.**

Deepak Gupta, Judge (Oral)

This petition for grant of regular bail has been moved by the petitioner against whom a case under Sections 302, 341, 324, 326 and under Section 109 I.P.C. has been registered at Police Station, Shillai vide F.I.R. No.51/2005.

2. The prosecution case is that on 21.9.2005 there was some altercation between Kamla Devi and complainant Sajji Devi with regard to taking of water near the water tank. Next day i.e. on 22.9.2005 when Sajji Devi was returning to her house after collecting grass, she was accosted by Kamla Devi who all of a sudden came and pushed her down. As a result of the push, complainant Sajji Devi fell down and then Kamla Devi threw acid at Sajji Devi as a result whereof the complainant received serious burn injuries. One small child Anil Kumar who was standing nearby also received injuries since some portion of the acid fell on him. Sajji Devi thereafter raised an alarm and she was taken by some persons and her husband to the Civil Hospital at Paonta Sahib. There the

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Whether the reporters of the local papers maybe allowed to see the judgment? Yes.

statement of complainant Sajji Devi was recorded and a case under Section 341, 324 and 326 IPC was registered against Kamla Devi. After the death Sajji Devi, the case has been converted to one under Section 302 IPC.

3. On investigation by the police, as per the prosecution, it was found that Kamla Devi was having intimate relations with bail petitioner Amarjeet Singh, who is stated to be working with a Forest Contractor. It is alleged that for extraction of resin, acid is used and in the course of his business bail petitioner Amarjeet Singh used to keep acid with him. The prosecution story is that when Kamla Devi had informed the petitioner that Sajji Devi had an altercation with her, he provided her with acid and also directed her to throw acid on Sajji Devi. After the statement of Sajji Devi was recorded her condition deteriorated and she was shifted to PGI Chandigarh. From PGI, she was brought back against medical advice and on the way she unfortunately expired.

4. Earlier also the present petitioner as well as Kamla Devi had filed a bail application which had been decided by me on December 6, 2005 and both the bail applications were rejected with liberty to the petitioners to again approach the Sessions Judge for grant of bail.

5. The challan has been filed. Kamla Devi had filed a bail application before the Sessions Judge. This bail application is allowed by the Sessions Judge mainly on the ground that Kamla Devi was pregnant.

6. Shri Deepak Kaushal, learned counsel appearing for the bail petitioner, submits that the main accused is Kamla Devi and the case against the present petitioner is at best a case of abetment only. Even with regard to the abetment he submits that there is no evidence directly linking Amarjeet Singh with the abetment of the crime.

7. On the other hand, Shri J.S.Guleria, learned Law Officer appearing on behalf of the State, submits that Kamla Devi has been granted bail only because she was a woman and was pregnant.

According to Shri Guleria, the present petitioner was having illicit relations with Kamla Devi and it was he who provided the acid and instigated Kamla Devi to throw the acid on Sajji Devi.

8. I have given my careful consideration to the facts of the case.

9. The petitioner has been behind bars for almost a year. The investigation is complete and the challan has been filed. The main accused Kamla Devi has been released on bail albeit on the ground that she is a pregnant lady. No doubt, the present petitioner is alleged to have abetted Kamla Devi in the commission of a very heinous and grave offence. However, it is not he who threw the acid and the fact whether he instigated Kamla Devi or provided the acid to her has to be proved during the course of trial. Keeping in view the aforesaid facts and circumstances, in my opinion, the bail petitioner has made out a case for grant of bail. It is accordingly ordered that the petitioner be released on bail on his furnishing bail bonds in the sum of Rs.25,000/- with one surety of the like amount to the satisfaction of the trial Court. The bail is granted subject to the conditions that the petitioner shall not directly or indirectly make any inducement, threat or promise to any of the prosecution witnesses nor shall he in any manner tamper with the prosecution evidence.

10. The petitioner shall also not leave the territory of Himachal Pradesh without the prior permission of the trial Court.

11. The petition is accordingly allowed and disposed of.

Copy ***dasti,*** on usual charges.

September 6, 2006. **(Deepak Gupta)**
(soni) **Judge.**